

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Status of Claims:

No claims are requested to be cancelled.

Claims 2, 5, 8 and 11 are currently being amended.

No claims are being added.

This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 2, 4-6, 8 and 10-12 are now pending in this application.

Claim Rejections – 35 U.S.C. § 103(a):

Claims 2, 4-6, 8 and 10-12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Beneveniste (US 5,513,379) in view of Gitlin et al. (US 5,442,525).

Independent Claims 2 and 8:

Independent claim 2 has been amended to recite, “said mobile station stops communication on one or more CDMA channels of said one base station, and begins communication on a corresponding number of CDMA channels of one or more other base stations, while still communicating throughout the communication using at least one channel of said one base station.” Independent claim 8 has a similar amendment to the corresponding limitation.

The Office Action in Item 2 indicates that Beneveniste discloses once allocated channels are exhausted, in a busy state, the call attempts to borrow channels from those

allotted to the base stations of neighboring cells in a specified order (see column 3, lines 50-56 and column 4, lines 32-34). However, Beneveniste discloses that if a call carried on a channel that was reserved by other cells terminates, one of these outstanding reservations is granted, where, in the cell in which the reservation request is granted, the last channel acquired in that cell is freed through an intra-cell handoff and that call transferred to the newly granted reserved channel (see column 4, lines 26-33). Here, each cell has a base station (see column 3, lines 31-36) which is allotted channels in the cell (see column 3, lines 53-56). Thus, a call in a cell with a first base station with a reservation request on a channel in another cell with a second base is transferred from a channel allotted to the first base station through intra-cell handoff to a channel in the other cell allotted to the second base station (see column 4, lines 26-33). Therefore, in Beneveniste, there is no longer any communicating with the channel of the first base station during the remainder of the call. Gitlin does not disclose communication on a corresponding number of CDMA channels of one or more other base stations, while still communicating throughout the communication using at least one channel of said one base station (see column 4, lines 44-62).

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. MPEP § 2143.01 (quoting *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)). Neither Beneviste nor Gitlin teaches or suggests that a mobile station stops communication on one or more CDMA channels of a first base station, and begins communication on a corresponding number of CDMA channels of one or more other base stations, while still communicating throughout the communication using at least one channel of the first base station, as incorporated in independent claims 2 and 8. Because this limitation is not taught in either of the applied references, *prima facie* obviousness has not been established for independent claims 2 and 8.

Accordingly, Applicant respectfully requests that the rejections of independent claims 2 and 8 under 35 U.S.C. § 103(a) as being unpatentable over Beneveniste in view of Gitlin be withdrawn.

Independent Claims 4 and 10:

Independent claim 4 recites, “one of said base stations, on receipt of a request from a second mobile station to start communication over n channels, where n is an integer equal to or greater than 2, checks whether n channels are available, and transmits the result of checking to said host station, said host station receives the result from said one of said base stations, if n channels are available, said host instructs said one of said base stations to start making communication with said second mobile station using n channels, and if only m channels are available, where m is an integer smaller than n , said host instructs said one of said base stations to start making communication with said second mobile station using m channels and further instructs one or more other base stations to start making communication with said second mobile station using $(n - m)$ channels, and said second mobile station makes communication with said one of said base stations using m channels, and further makes communication with said one or more other base stations using $(n - m)$ channels.”

Independent claim 10 recites a similar limitation.

The Office Action states in Item 2 that Beneveniste discloses that if n channels are available, the host instructs the one of the base stations to start making communication with the second mobile station using n channels (see column 4, lines 1-54; Figure 3, item 300). But Beneveniste describes that a call carried on a channel in cell that has an outstanding reservation of a channel in another cell, made available by the cancellation of a call on that channel, is transferred to the reserved channel in the other cell (see column 4, lines 26-33). Beneveniste solely describes a correspondence of one call per one channel.

The other portions of Beneveniste relied upon also do not disclose multiple channels per call. For example, Beneveniste describes a code associated with a user for communication, but not multiple channels per user (see column 1, lines 55-57). Additionally, Beneveniste discloses channel assignment and allocation of channels to cells, but not multiple channels used for individual calls (see column 6, lines 30-50). This reference does not describe a mobile station communication over more than one channel at a time or making more than one call at a time. Thus, Beneveniste discloses a mobile station making a call with communication over n channels where n equals 1, but not greater than 2, as claimed in independent claims 4 and 10.

Gitlin does not disclose claimed communication protocol with a mobile station as claimed. Gitlin describes a mobile unit 1 converting a user digital stream into M basic rate streams (see column 3, lines 31-41). However, Gitlin does not mention checking whether there are a certain number of channels available in the base station or instruction one or more other base stations to make communication with the mobile station as claimed in independent claims 4 and 10.

Accordingly, Applicant respectfully requests that the rejections of independent claims 4 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Beneveniste in view of Gitlin be withdrawn.

Independent Claims 5 and 11:

Independent claim 5 has been amended to recite “said one of said base stations stops communication with said first mobile station on a specified number of channels while remaining in communication throughout the communication with the first mobile station on at least one channel, and transmits a request to said host station to begin communication between said first mobile station and one or more other base stations using said specified number of channels.” Independent claim 11 has been amended with a similar limitation.

As mentioned above with respect to independent claims 2 and 8, Beneveniste discloses that if a call carried on a channel that was reserved by other cells terminates, one of these outstanding reservations is granted, where, in the cell in which the reservation request is granted, the last channel acquired in that cell is freed through an intra-cell handoff and that call transferred to the newly granted reserved channel (see column 4, lines 26-33). Here, each cell has a base station (see column 3, lines 31-36) which is allotted channels in the cell (see column 3, lines 53-56). Thus, a call in a cell with a first base station with a reservation request on a channel in another cell with a second base is transferred from a channel allotted to the first base station through intra-cell handoff to a channel in the other cell allotted to the second base station (see column 4, lines 26-33). Therefore, in Beneveniste, there is no longer any communicating with the channel of the first base station during the remainder of the call. Gitlin does not disclose communication on a corresponding number of CDMA channels of

one or more other base stations, while still communicating throughout the communication using at least one channel of said one base station (see column 4, lines 44-62).

Accordingly, Applicant respectfully requests that the rejections of independent claims 5 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Beneveniste in view of Gitlin be withdrawn.

Dependent Claims 6 and 12:

If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. MPEP § 2143.03 (quoting *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). Thus, dependent claims 6 and 12 are nonobvious from their dependence on nonobvious independent claims 4 and 5; and 10 and 11, respectively.

Accordingly, Applicant respectfully requests that the rejections of independent claims 6 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Beneveniste in view of Gitlin be withdrawn.

Conclusion:

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for

such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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